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RICHARD H. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17
18 UNITED STATES OF AMERICA,

19 Plaintiff,

20 v.

21 ANNABEL MCCLELLAN,

22 Defendant.

23 Case No. CR 10-0860 WHA

24 DEFENDANT ANNABEL
25 MCCLELLAN'S REDACTED
26 SENTENCING MEMORANDUM

27 Sentencing Date: November 8, 2011

28 I. INTRODUCTION

29 Defendant Annabel McClellan stands before the Court for sentencing after pleading
30 guilty to obstruction, a violation of 18 U.S.C. § 1505. Ms. McClellan's guilty plea arises from
31 false statements she made under oath in October 2009 during an insider trading investigation
32 conducted by the United States Securities and Exchange Commission. During that testimony,
33 Ms. McClellan denied that she had knowledge of any confidential information regarding her
34 husband's work as head of a mergers and acquisition group at an accounting firm and denied that
35 she had given any of that information to James or Miranda Sanders, her brother-in-law and sister.
36 In fact, from January 2007 until sometime in May 2008, Ms. McClellan had given James and

1 Miranda Sanders the names of companies potentially being acquired by clients of her husband's
2 firm, prior to the acquisitions being publicly announced. Ms. McClellan gathered this
3 information unbeknownst to her husband by overhearing his business calls and by seeing papers
4 in his home office. She had agreed to provide the confidential information to James Sanders for
5 the sole purpose of raising money to provide much-needed financial assistance to her father, who
6 was facing criminal charges in the United Kingdom. Ms. McClellan never intended to, nor did,
7 receive any of the proceeds of the trading activity. Nonetheless, Ms. McClellan admits that she
8 lied under oath to SEC investigators when she was asked about her involvement in conveying to
9 the Sanderses confidential information. While Ms. McClellan did so for a variety of complex
10 family and personal reasons – reasons that are inextricably linked to her impulse to provide
11 information to the Sanderses to begin with – she demonstrably accepts full and sole
12 responsibility for her actions.

13 Ms. McClellan personally has apologized, face-to-face, to the investigators whose work
14 she obstructed, and to her husband whom she betrayed and whose reputation and career has been
15 marred by her conduct. In addition, she fully debriefed her involvement over three days of
16 intense questioning by members of the FBI, United States Attorney's Office, SEC, and Financial
17 Services Authority of the United Kingdom ("FSA"). Subsequently, Ms. McClellan agreed –
18 which settlement this Court accepted – to pay a \$1 million fine to the SEC, though she personally
19 received no profits. Throughout this process, Ms. McClellan meaningfully has taken stock of her
20 life and actively is addressing what led her to this point. Ms. McClellan stands ready to accept
21 the Court's judgment and serve her sentence.

1 On April 5, 2011, the Government and Ms. McClellan entered into a plea agreement
2 pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) whereby Ms. McClellan pleaded
3 guilty to one count of obstruction in exchange for the Government's recommendation of a final
4 offense level of twelve (12) under the U.S. Sentencing Guidelines. This recommendation
5 includes a two-point downward adjustment for Ms. McClellan's acceptance of responsibility
6 under U.S.S.G §3E 1.1(a). The resulting guideline range is 10 to 16 months. Under the plain
7 terms of the agreement, Ms. McClellan has agreed not to argue for a sentence of less than 10
8 month in prison. The Government has recommended a sentence of 14 months in prison.
9

10 The Presentence Report recommends the low end of the guideline range of 10 months,
11 taking into account the seriousness of Ms. McClellan's offense, while recognizing the mitigating
12 facts of Ms. McClellan's history of good works, including charitable and volunteer work, and her
13 independent motivation to pursue mental health treatment to address the motivations for her
14 conduct. Thus, as just punishment for her offense, Ms. McClellan urges the Court to follow the
15 recommendation of the Probation Officer in imposing a sentence of 10 months imprisonment.
16

17 **II. THE SENTENCING FACTORS UNDER 18 U.S.C. § 3553(a) MILITATE
18 IN FAVOR OF A TEN MONTH SENTENCE**

19 a. Sentencing Factors under 18 U.S.C. § 3553(a)

20 Under 18 U.S.C. § 3553(a), the Court must consider several factors in determining what
21 type and length of sentence is sufficient, but not greater than necessary, to comply with the
22 statutory directives set forth therein. As the Supreme Court held in *United States v. Booker*
23 (2005) 543 U.S. 220, and clarified and reiterated in its decisions in *Gall v. United States* (2007)
24 552 U.S. 38, and *Kimbrough v. United States* (2007) 552 U.S. 85, the Sentencing Guidelines
25 are advisory and, thus, are just one of a number of factors to be considered under § 3553(a).
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Under the statute, an appropriate sentence must: (A) reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense; (B) afford adequate deterrence to criminal conduct; (C) protect the public from further crimes of the defendant; and (D) provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. *See* 18 U.S.C. § 3553(a). Additionally, in determining the minimally sufficient sentence, § 3553(a) further directs sentencing courts to consider: (1) “the nature and circumstances of the offense and the history and characteristics of the defendant”; (2) “the kinds of sentences available”; (3) “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct”; and (4) “the need to provide restitution to any victims of the offense.” *See id.*

Therefore, a sentencing court must consider all of the § 3553(a) factors, not just the Guidelines, in determining a sentence that is sufficient but not greater than necessary to meet the goals of sentencing. Not only may the district court not presume that the Guidelines range is reasonable, but neither should the Guidelines factor be given more or less weight than any other. *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008) (en banc) (citations omitted) (holding that “while the Guidelines are to be respectfully considered, they are one factor among the § 3553(a) factors that are to be taken into account in arriving at an appropriate sentence.”)

b. The Nature and Circumstances of the Offense

The SEC Testimony

In October 2009, when Ms. McClellan was subpoenaed to testify regarding her involvement in providing confidential information to James and Miranda Sanders, she did not

1 tell the truth. She lied about her knowledge of and involvement in providing to James and
2 Miranda Sanders confidential information, which conduct had ended – of Ms. McClellan’s own
3 volition and well before she became aware of the SEC investigation – over 16 months prior.
4 Admittedly, Ms. McClellan’s reasons for giving false testimony included her desire to avoid
5 punishment for her wrongdoing. However, simultaneously, many other dynamics involving her
6 family, her marriage, and her husband’s career, were also in play.

7 In an ill-advised and near-sighted decision, Ms. McClellan thought that by denying her
8 involvement to the SEC she could: (1) protect her sister and brother-in-law by not contradicting
9 the statements they had already given to UK authorities several months earlier, (2) avoid
10 further damage to her husband’s career by trying to move past the SEC inquiry, thus facilitating
11 her husband’s return to work, which had been suspended pending the outcome of the SEC’s
12 investigation that became known to the McClellans and Mr. McClellan’s employer in late May
13 2009, and (3) avoid further harm to her marriage and the pain and anguish of admitting her
14 profound betrayal to her husband. Ms. McClellan’s was – by her own doing – faced with a
15 terrible choice when subpoenaed by the SEC to testify. Her decision was not, as the
16 government contends, part of a “carefully planned criminal scheme.” Rather, under the
17 pressures of the situation, in which she was jointly represented with her husband, she made the
18 wrong decision, and one for which she is deeply remorseful. Ms. McClellan now faces the
19 reality that in trying to avoid the consequences of her actions, she is suffering all the things she
20 hoped to avoid – the destruction of her relationship with her sister and of her husband’s career
21 – and more, as she will now be separated from her children for a lengthy period of
22 incarceration.

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28 DEFENDANT ANNABEL MCCLELLAN'S REDACTED SENTENCING MEMORANDUM - 6 -
CASE NO.: CR-11-0860 WHA

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1 **Ms. McClellan's Cooperation**

2 Over three grueling days of focused questioning by three law enforcement agencies,
3 Ms. McClellan fully debriefed her involvement in providing confidential information to James
4 and Miranda Sanders. In so doing, she painfully, but willingly, disclosed intense personal
5 details about her life, her marriage, and her family. So committed was she to finally and fully
6 making the Government, the SEC, and the FSA understand what had happened and her part in
7 it, that she agreed to waive her marital communications privilege regarding these events. Ms.
8 McClellan's cooperation with authorities was earnest and robust, and involved bearing the most
9 intimate details of her life to skeptical prosecutors and regulators. By truthfully and completely
10 answering each and every question posed to her over her three-day proffer, Ms. McClellan has
11 provided significant assistance to the Government and regulators. Additionally, Ms. McClellan
12 is restricted from communicating in any fashion with her sister, Miranda – which limitation she
13 dutifully obeys.

14 c. The History and Characteristics of the Defendant

15 Aside from this offense and the circumstances surrounding it, Ms. McClellan has led a
16 good life. Despite her chaotic upbringing, Ms. McClellan was a good student, "excelled at
17 school and always received glowing reports from her teachers," finished the English equivalent
18 of college earning a degree in law, and went on to work as a tax professional in London, where
19 she met her husband.¹ Ms. McClellan gave up her promising career "to devote her life to her
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¹ Letter from Diane Hirst ("Hirst Letter"), Exhibit 6. All letters previously have been submitted
27 to the Court in conjunction with the Presentence Report.

1 husband and children so that she could be the greatest support to them possible,”² and “to be the
 2 kind of mother she felt she needed to be.”³ And to that end, she has been extremely successful.
 3 Ms. McClellan is “a terrific mother and has been tremendously involved”⁴ in the lives of her
 4 children, whom “she walks to school”⁵ each day. She “takes an active role in their education”
 5 and in dealing with “difficult social situations at school,”⁶ ensures that they are raised in a
 6 “loving environment at home,”⁷ and that they “grow into fine young men.”⁸ “To be with the
 7 McClellans [is] to be in a happy home.”⁹ “Annabel has instilled good moral values in her
 8 sons,”¹⁰ including the way she has dealt with the instant offense:

10 Annabel’s sons are a real credit to her; polite, strong-minded and with a
 11 strong moral code. Throughout this episode, Annabel has discussed her
 12 wrong-doing with her sons and they are proud of her for admitting to her
 13 wrong-doing and standing up to the consequences of her actions.¹¹

14 The “character [she] has exhibited during this difficult period exemplifies the priority
 15 [she] places on their children and family.”¹² Ms. McClellan is the “pivotal person in her
 16 family,”¹³ described as the “backbone of her family unit”¹⁴ and “bedrock of her boys’ lives,”¹⁵
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18 ² Hirst Letter.

19 ³ Letter from Suraya Marshall (“Marshall Letter”), Exhibit 2.

20 ⁴ Letter from Lauren Barton, Exhibit 11.

21 ⁵ Letter from Lois Wooten (“Wooten Letter”), Exhibit 21.

22 ⁶ Letter from Jared Fortunato, Exhibit 9.

23 ⁷ Letter from Patricia Downs (“Downs Letter”), Exhibit 7.

24 ⁸ Letter from Rick Rankin, Exhibit 12.

25 ⁹ Wooten Letter.

26 ¹⁰ Letter from Sarah Morse (“Morse Letter”), Exhibit 8.

27 ¹¹ Letter from Tamara Bond (“Bond Letter”), Exhibit 10.

28 ¹² Letter from Renu Agrawal, Exhibit 20.

¹³ Bond Letter.

¹⁴ Letter from Caroline Yip (“Yip Letter”), Exhibit 15.

1 and on whom her “family depends greatly” for her “love and presence.”¹⁵

2 As such, Ms. McClellan’s absence from her boys, who are 8 and 13 years old, will have
 3 a profound impact on them.¹⁶ Ms. McClellan has been the primary caregiver for her children
 4 since their birth and is the main source of stability and cohesion in their lives. Ms. McClellan
 5 has no other family support here other than her husband, whose relationship with the children is
 6 described in detail in Dr. Jinich’s report. Ms. McClellan is intensely concerned about the affect
 7 her absence will have on her children and is deeply regretful to be putting her children through
 8 an experience similar to that which she and her siblings suffered.

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 10 In terms of her character, Ms. McClellan is not only immensely involved in her
 11 children’s lives, but she has applied herself “tirelessly to support the community in which she
 12 lives,”¹⁷ and, “has used her talents to help others.”¹⁸ These efforts include her work as “chair of
 13 the Town School Clothes Closet, a secondhand store run by committee, for two years” and “on
 14 behalf of Edgewood Center for Children and Families” taking a leadership role as the
 15 “Underwriting Chair for the annual fundraising event.”¹⁹
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19¹⁵ Letter from Holland Bender (“Bender Letter”), Exhibit 23.

20¹⁶ The developmental impact of a mother’s arrest and incarceration is often more disruptive than
 21 that of a father’s. Children are found to have experienced emotional problems, nightmares,
 22 fighting in school and a decline in academic performance as a result of being separated due to
 23 their mother’s incarceration.” Barbara Bloom, *Imprisoned Mothers*, in *Children of
 Incarcerated Parents*, edited by Katherine Gabel and Denise Johnston, M.D., Lexington Books,
 24 New York, 1995, p. 21; Susan M. Hunter, “Forward,” in Gabel and Johnston, p. ix; U.S. GAO,
 Women in Prison, Washington, D.C., December 1999, p. 32.

25¹⁷ Letter from Susan Heske (“Heske Letter”), Exhibit 22.

26¹⁸ Letter from Marian Heath (“M. Heath Letter”), Exhibit 3.

27¹⁹ M. Heath Letter; Letter from Kelly Wylie, Exhibit 4; Downs Letter; Letter from Robert Heath
 (“R. Heath Letter”), Exhibit 13; Letter from Mary Ann McClellan (“McClellan Letter”),
 Exhibit 14; Letter from DeAnne Gustavson (“Gustavson Letter”), Exhibit 19; Heske Letter.

1 Consistently throughout the two dozen letters of support submitted to the Court on her
 2 behalf, Ms. McClellan is described as someone with a "good heart"²⁰ who is "warm and
 3 outgoing,"²¹ "much loved and highly regarded by those who know her,"²² and as "selfless,
 4 helpful, and kind,"²³ "gracious, poised, and humble."²⁴ She is "trusted implicitly" and given the
 5 responsibility of being godmother, power of attorney, and emergency contact for her friends
 6 and their children.²⁵ She is known for her "integrity and honesty,"²⁶ "strength of character,
 7 determination, and intelligence,"²⁷ and as "a wonderful and sincere person who displays a
 8 caring and nurturing nature at a level that is uncommon to see in others."²⁸

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 10 "People think of Annabel first when they need someone to run their charity, help on a
 11 daily basis, or just need a friend."²⁹ "She is there when it truly counts."³⁰ When a friend was
 12 diagnosed with cancer recently, Ms. McClellan became "her primary caregiver," "driving her
 13 to and from surgery," "checking in on her several times a day," and "unconditionally makes
 14 time to be [her] advocate at follow up doctor appointments."³¹ As a friend, she has consistently
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19 ²⁰ Bender Letter.

20 ²¹ Letter from Milly Hanley ("Hanley Letter"), Exhibit 16.

21 ²² Letter from Brewster Ely ("Ely Letter"), Exhibit 1; McClellan letter.

22 ²³ Wyllie letter; Letter from Mary Ann Bendel, Exhibit 18.

23 ²⁴ Letter from Linda Klouda ("Klouda Letter"), Exhibit 5.

24 ²⁵ Klouda Letter; M. Heath Letter.

25 ²⁶ Letter from Janny Rieder, Exhibit 17.

26 ²⁷ Hirst Letter.

27 ²⁸ Gustavson Letter.

28 ²⁹ Downs Letter.

29 ³⁰ Gustavson Letter.

30 ³¹ R. Heath Letter; Klouda Letter.

1 "offered and demonstrated introspection, encouragement, empathy, and honest friendship."³²

2 All who know her remark on the "special bond" she has with her family in England
 3 "despite the many miles that separate them."³³ Her sister Caroline attests that "she has always
 4 played a protective role and has always been there for me with advice and support which was
 5 especially important during our parent's divorce when I was 5."³⁴ For this reason, it is
 6 especially heart-wrenching for Ms. McClellan that – during the pendency of this investigation
 7 and until the time that her sister Miranda's case is concluded – she is prohibited from having
 8 any contact with her. Given the close nature of their relationship previously and Ms.
 9 McClellan's assumption of a maternal role in her sisters' lives, this is an extraordinary
 10 punishment in and of itself.

11 Ms. McClellan's offense is clearly an aberrant episode in an otherwise productive,
 12 loving, valuable life. She is dear to her family and friends and is a contributing member of her
 13 community. She made bad choices leading to her prosecution, but, as is also consistent
 14 throughout the attestations submitted to the Court, Ms. McClellan has expressed sincere and
 15 profound remorse and regret for her conduct and has taken full responsibility for her actions -
 16 even to those in her life who are not directly affected.

17 As Dr. Jinich attests, Ms. McClellan has taken real steps to take stock of what caused
 18 her behavior and diligently is working to address the psychological trauma and stressors that
 19 shaped her poor decision-making. Ms. McClellan stands before the Court both willing and well
 20 on her way to making amends and repairing the damage she has caused. She asks that the

21 ³² Morse Letter.

22 ³³ Kouda Letter.

23 ³⁴ Yip Letter.

1 Court evaluate her offense the context of all the many other ways she is a good person, a
2 wonderful mother, supportive wife, unfailing friend, and valuable citizen.

3 d. The Need for the Sentence Imposed to Reflect the Seriousness of the Offense,
4 Promote Respect for the Law, and Provide Just Punishment

5 In determining whether the low end of the guidelines range is warranted under these
6 circumstances, the Court should consider that Ms. McClellan has no criminal history, has led
7 honest and trouble-free life, and she will continue to do so going forward. Obstruction of the
8 SEC's investigation or any act of lying under oath is a serious offense that, by its very nature,
9 demonstrates a lack of respect for the law. Thus, it follows that the punishment should be
10 commensurate in promoting respect thereof. Here, a sentence of 10 months imprisonment –
11 along with the significant collateral consequences of her incarceration to her family unit – is a
12 serious sentence. It reflects appropriately the seriousness of Ms. McClellan's offense, while
13 promoting the respect for the law that her offense flouted, and provides just punishment,
14 considering the totality of the circumstances.

17 e. The Need for the Sentence to Afford Adequate Deterrence to Criminal Conduct
18 and Protect the Public from Further Crimes of the Defendant

19 Ms. McClellan's situation and the impact that her offense already has had on her life is a
20 perfect illustration to others who would attempt to lie to investigators or obstruct a government
21 investigation that attempting to avoid prosecution by lying is not worth the risk. In addition to
22 the serious sentence of incarceration Ms. McClellan faces, she has agreed to pay to the SEC a
23 fine of \$1 million, \$250,000 of which already has been paid. This is a severe penalty, an
24 enormous financial burden on their family, and an additional consequence for her conduct in this
25 matter. At the end of the day, Ms. McClellan's family and children will pay many times that

amount in terms of the damage to her husband’s reputation, career, and earning potential going forward. Despite his exoneration and the dismissal of the SEC matter against him, the blemish on her husband’s name and record will not be easily erased. In addition, the publicity that Ms. McClellan’s prosecution, conviction, and sentencing have drawn serve as powerful deterrents to others in positions similar to Ms. McClellan. Finally, in terms of specific deterrence, prevention of Ms. McClellan ever making the same mistake again is certain. As the Presentence Report notes, the regret Ms. McClellan feels has been “unbearable,” and despite the pain of this process, McClellan has “accepted full responsibility for her conduct.”³⁵ Under these circumstances, where both specific and general deterrence already have been accomplished, a sentence on the low end of the guideline range is sufficient.

f. To Provide the Defendant with Needed Educational or Vocational Training, Medical Care, or Other Correctional Treatment, in the Most Effective Manner.

³⁵ Presentence Report, ¶ 13, page 5.

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7 As the Court is aware, weekly psychotherapy is not available to inmates during their
8 incarceration. Therefore, Ms. McClellan requests that the Court consider that her needed
9 psychotherapy will be interrupted, her anxiety increased during her 10 month term of
10 incarceration, and that it makes sense to minimize this interruption so as not to impede the
11 progress she has made thus far.

12 g. The Kinds of Sentences Available and the Applicable Sentencing Range

13 As described in the Presentence Report, USSG § 5C1.1 (d) provides that for a Zone C
14 sentence, the minimum term of 10 months imprisonment may be satisfied by (1) a sentence of
15 imprisonment; or (2) a sentence of imprisonment that includes a term of supervised release with
16 a condition that substitutes community confinement or home detention, provided that at least
17 one-half of the minimum term is satisfied by imprisonment. Here, Ms. McClellan has agreed as
18 a term of the agreement not to argue for a sentence of less than 10 months in prison.

19 Additionally, the plea agreement provides for a one to three years of supervised release.
20 Ms. McClellan asks the Court to impose a term of one year of supervised release. Section
21 3583(c) guides the Court in determining the appropriate length of a term of supervise release and
22 provides that the Court not focus on supervised release as punishment. *See 18 U.S.C. § 3583(c)*
23 Rather, the Court is urged to focus on the extent to which the supervision affords adequate
24

deterrence, protects the public from further crimes of the defendant, and provides the defendant with needed rehabilitation. *Id.* Here, to accomplish these objectives, it is unnecessary to require Ms. McClellan – a 39-year old, educated mother of two, with strong ties to the community, and who has demonstrated a real interest in addressing her behavior through clinical therapy – to submit to a lengthy period of supervised release. One year is sufficient to satisfy the Court that upon her release, Ms. McClellan fulfills her duties to the Court to lead a trouble-free life and to address her personal issues. Beyond that, the cost to the Court of an additional term of supervised release is unwarranted under these circumstances. Thus, Ms. McClellan respectfully asks that the Court order a one-year term of supervised release following her incarceration.

11 h. The Need to Avoid Unwarranted Sentence Disparities among Defendants with
12 Similar Records Who Have Been Found Guilty of Similar Conduct

13 Ms. McClellan’s offense was a foolish, selfish act for which she is suffering the
14 consequences – financially, legally, and personally. As the sentence Ms. McClellan seeks is
15 within the guidelines range for her offense level, the Court’s imposition of a 10-month sentence
16 would not create any unwarranted sentencing disparity among defendants with similar records
17 who have been found guilty of similar conduct.

18 i. The Need to Provide Restitution to Any Victims of the Offense

19 As the Government and the Probation Office agree, restitution is not an issue in this case
20 as there are no identifiable victims.

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1 **III. RECOMMENDED SENTENCE**

2 Ms. McClellan asks the Court to impose a sentence of 10 months imprisonment, one
3 year supervised release, no fine (as recommended by the PSR and the Government, based on
4 her payment of a \$1 million fine in the SEC matter), no restitution (as recommended by the
5 PSR and the Government), and a \$100 special assessment.

6 Ms. McClellan agrees to the conditions of supervised release recommended in the PSR,
7 with two exceptions. First, as Ms. McClellan's primary vocation since 1998 has been the care
8 of her two young children, Ms. McClellan asks the Court not to require her to be employed
9 full-time (or in search thereof) during the period of supervised release (Condition 5).
10 Especially after having been separated from her children for the period of her incarceration, it
11 would be an unnecessary additional impediment to Ms. McClellan's attempt to re-stabilize her
12 children's life upon her return home. Second, Ms. McClellan asks the Court to exclude the
13 condition requiring Ms. McClellan to submit to searches (Condition 6). As there is no
14 allegation that Ms. McClellan's offense involved the possession of contraband or any
15 indication that she will in the future possess such contraband, this condition is not rationally
16 related to the facts of this case.

17 **IV. VOLUNTARY SURRENDER**

18 As the PSR has noted, Ms. McClellan is a good candidate for self-surrender and she
19 requests that she be allowed to surrender herself voluntarily to the facility assigned her by the
20 Bureau of Prisons on a date determined by this Court.

21 Upon clear and convincing evidence that Ms. McClellan is neither "likely to flee" nor
22 "pose[s] a danger to the safety of any other person or the community," and if it is "clearly
23

1 shown that there are exceptional reasons" why Ms. McClellan should not be remanded to
2 custody immediately following the sentencing, this Court may allow Ms. McClellan to remain
3 released from custody and to surrender herself voluntarily to the Bureau of Prisons on the date
4 ordered by this Court. *See* 18 U.S.C. § 3144(c), 3143(a)(1).

5 Ms. McClellan has demonstrated that she is not a flight risk and that she lives up to her
6 obligations to this Court by dutifully attending each and every ordered court appearance, and
7 by fastidiously checking in with the Pretrial Services office. The government does not oppose
8 Ms. McClellan's request that she be released on her own personal recognizance under 18
9 U.S.C. § 3142(b) following imposition of sentence to allow her to self-surrender to the
10 institution designated by the Bureau of Prisons.

13 V. CONCLUSION

14 Ms. McClellan's punishment extends far beyond the term of imprisonment the Court will
15 impose. As a result of her own actions and poor decisions, she will subject her children to the
16 trauma of her absence, an experience similar to that which she and her siblings suffered. Her
17 husband's reputation, career, and future earning potential have been severely impacted. In
18 addition, she has endured the extremely painful restriction against contact with her sister.

20 Ms. McClellan diligently is working to address and confront painful issues with which
21 she has struggled. For 21 months, she has participated in weekly counseling and has made
22 progress in meeting specific treatment goals. Ms. McClellan has apologized to those who were
23 impacted by her wrongful conduct, and she is deeply committed to restoring her relationship
24 with her family and continuing her contributions to the community. She accepts full
25 responsibility and is truly sorry for her actions.

1 For the all the reasons set forth above, Ms. McClellan asks the court to follow the
2 recommendations of the Probation Office in imposing a sentence of 10 months imprisonment.
3 Based on the Court's inherent discretion and according to the §3553(a) factors, Ms. McClellan
4 respectfully submits that a sentence of 10 months incarceration, one year supervised release, and
5 a \$100 special assessment, is fair and just sentence.
6

7 Dated: October 31, 2011

Respectfully submitted,



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10 Nanci L. Clarence
11 Nicole Howell Neubert
12 CLARENCE DYER & COHEN LLP
13 Counsel for Defendant Annabel McClellan
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CERTIFICATE OF SERVICE

I, Abbie Chin declare that:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action. My business address is 899 Ellis Street, San Francisco, California 94109.

On November 2, 2011, I served a copy, with all exhibits, of the following document(s):

**DEFENDANT ANNABEL MCCLELLAN'S REDACTED SENTENCING
MEMORANDUM**

MEMORANDUM
To be served on the parties or attorneys in this action as follows:

(BY PERSONAL SERVICE) By personally delivering a copy of said documents to the address(es) below:

(BY ELECTRONIC SERVICE) I caused an electronic delivery subject to 28 U.S.C. ¶1746, Local Rules or General Orders of this Court regarding Electronic Case Filing. All pleadings and papers must be electronically served in accordance with those Rules or General Orders with email address(es) as noted below:

Said envelope was addressed as follows:

Adam Reeves U.S. Attorney's Office 450 Golden Gate San Francisco, CA 94109 adam.reeves@usdoj.gov	Charlie Mabie Northern District of California United States Probation and Parole Officer 450 Golden Gate Avenue 18th Floor San Francisco, CA 94102 charlie_mabie@camp.uscourts.gov
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I declare under penalty of perjury that the foregoing is true and correct. Executed on
November 2, 2011 at San Francisco, California. 

Abbie Chin